

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IES UTILITIES INC.	DOCKET NO. RPU-90-7
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**ORDER ESTABLISHING BRIEFING SCHEDULE**

(Issued December 29, 2000)

On April 30, 1991, the Utilities Board (Board) issued its "Final Decision And Order" in the Iowa Electric Light and Power Company, n/k/a IES Utilities Inc. (IES), rate case proceeding indentified as Docket No. RPU-90-7. In that decision, the Board allowed IES to recover an amount for the cost of environmental remediation of former manufactured gas plant (FMGP) sites. In the April 30, 1991, order the Board stated, in part, that since it was reasonable for ratepayers to absorb a portion of the cost of environmental clean-up through rates, it was also reasonable that at least some portion of any third-party recovery for the environmental clean-up from insurance companies should offset ratepayer expenses. The Board went on to state that it believed a sharing of the third-party recoveries between ratepayers and shareholders was appropriate, and that IES should keep an accumulative record of the clean-up costs.

IES had indicated that it had 101 general comprehensive insurance policies under which it planned to pursue recovery. The Board, on October 16, 1998, issued an order directing IES to file a report that showed all insurance recoveries, amounts recovered through rates, amounts expended on clean-up efforts, and amounts

projected to be spent on remediation in the future. IES filed its report on December 8, 1998, and indicated that it would be concluding an extensive study of all FMGP sites by the end of 1998. The Board issued an order on February 17, 1999, and directed IES to file a summary detailing the accelerated clean-up program and associated expenditures. On March 30, 1999, IES filed the summary. No additional pleadings or orders have been filed in this docket.

In the December 8, 1998, report IES states that the sums in the report also relate to FMGP sites outside the state of Iowa. IES indicates that even though the Board would allow sharing of any insurance recoveries, IES does not seek any share of the recoveries. IES then states that it believes the recoveries should be applied to the investigation and remediation of the FMGP sites regardless of location. IES then asserts that the Board does not have statutory authority to grant refunds associated with the insurance recoveries. IES asserts finally that the only refunds that the Board may order are related to interim rate filings pursuant to Iowa Code § 476.6(13).

No other parties have filed a position with regard to the disposition of the insurance recoveries.

The Board understands that IES is holding the recovered funds at this time, and finds that the issue of the disposition of the insurance recoveries is ripe for resolution. The report by IES was filed in December 1998, and the summary in March 1999. There have been no additional pleadings filed concerning the recoveries. The Board delayed issuing an order to allow interested parties to reach a settlement on the disposition of the recoveries. It appears now that a settlement will not occur.

The Board believes the issues involved in the resolution are legal issues and therefore no hearing is necessary. The Board will establish a date for briefs on the legal issues. The Board will also establish a date by which the parties may notify the Board if a party believes that an additional evidentiary proceeding is necessary.

**IT IS THEREFORE ORDERED:**

1. On or before January 16, 2001, the parties shall file one round of simultaneous briefs that address two issues involving the disposition of the insurance recoveries by IES Utilities Inc. The two issues to be briefed are:

a. Does the Utilities Board have statutory authority to order refunds of the insurance recoveries held by IES Utilities Inc.?

b. If the Utilities Board is found to have the authority to order the refunds, should the insurance recoveries be refunded to customers or should they be retained for accelerated remediation by IES Utilities Inc.

2. On or before January 5, 2001, any party may file a motion for further evidentiary proceedings.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

Dated at Des Moines, Iowa, this 29<sup>th</sup> day of December, 2000.